

AIR TRANSPORT SERVICES

Exchange of notes at Washington December 16, 1944, supplementing arrangement of March 12 and 24, 1934

Entered into force provisionally January 1, 1945; definitively September 29, 1945

Annex amended by agreements of October 23 and December 5, 1945, and March 21, 1946,¹ and August 6, 1954;² annex replaced by agreements of July 8, 1958,³ and June 7, 1966⁴

58 Stat. 1485; Executive Agreement Series 430

The Secretary of State to the Danish Minister

DEPARTMENT OF STATE

WASHINGTON

December 16, 1944

SIR:

I have the honor to refer to discussions which have recently taken place at the International Civil Aviation Conference in Chicago between you and representatives of the Government of the United States of America, for the conclusion of a reciprocal air transport agreement.

It is my understanding that these discussions, now terminated, have resulted in the following agreement:

AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND DENMARK RELATING TO AIR TRANSPORT SERVICES

The Governments of the United States of America and Denmark signed on March 12 and 24, 1934,⁵ an air navigation arrangement relating to the operation of civil aircraft of the one country in the territory of the other country, in which each party agreed that consent for the operations over its territory by air transport companies of the other party might not be refused on unreasonable or arbitrary grounds. Pursuant to the aforementioned arrange-

¹ TIAS 1519, *post*, p. 119.

² 5 UST 1422; TIAS 3014.

³ 9 UST 1005; TIAS 4071.

⁴ 17 UST 712; TIAS 6021.

⁵ EAS 58, *ante*, p. 92.

ment of 1934, the Government of the United States of America and the Danish Minister in Washington on behalf of Denmark hereby conclude the following supplementary arrangement covering the operation of scheduled airline services:

ARTICLE 1

The contracting parties grant the rights specified in the Annex hereto necessary for establishing the international civil air routes and services therein described, whether such services be inaugurated immediately or at a later date at the option of the contracting party to whom the rights are granted.

ARTICLE 2

(a) Each of the air services so described shall be placed in operation as soon as the contracting party to whom the rights have been granted by Article 1 to designate an airline or airlines for the route concerned has authorized an airline for such route, and the contracting party granting the rights shall, subject to Article 6 hereof, be bound to give the appropriate operating permission to the airline or airlines concerned; provided that the airline so designated may be required to qualify before the competent aeronautical authorities of the contracting party granting the rights under the laws and regulations normally applied by these authorities before being permitted to engage in the operations contemplated by this agreement; and provided that in areas of hostilities or of military occupation, or in areas affected thereby, such inauguration shall be subject to the approval of the competent military authorities.

(b) It is understood that either contracting party granted commercial rights under this agreement should exercise them at the earliest practicable date except in the case of temporary inability to do so.

ARTICLE 3

In order to prevent discriminatory practices and to assure equality of treatment, both contracting parties agree that:

(a) Each of the contracting parties may impose or permit to be imposed just and reasonable charges for the use of public airports and other facilities under its control. Each of the contracting parties agrees, however, that these charges shall not be higher than would be paid for the use of such airports and facilities by its national aircraft engaged in similar international services.

(b) Fuel, lubricating oils and spare parts introduced into the territory of one contracting party by the other contracting party or its nationals, and intended solely for use by aircraft of such other contracting party shall be accorded national and most-favored-nation treatment with respect to the imposition of customs duties, inspection fees or other national duties or charges by the contracting party whose territory is entered.

(c) The fuel, lubricating oils, spare parts, regular equipment and aircraft stores retained on board civil aircraft of the airlines of one contracting party authorized to operate the routes and services described in the Annex shall, upon arriving in or leaving the territory of the other contracting party, be exempt from customs, inspection fees or similar duties or charges, even though such supplies be used or consumed by such aircraft on flights in that territory.

ARTICLE 4

Certificates of airworthiness, certificates of competency and licenses issued or rendered valid by one contracting party shall be recognized as valid by the other contracting party for the purpose of operating the routes and services described in the Annex. Each contracting party reserves the right, however, to refuse to recognize, for the purpose of flight above its own territory, certificates of competency and licenses granted to its own nationals by another State.

ARTICLE 5

(a) The laws and regulations of one contracting party relating to the admission to or departure from its territory of aircraft engaged in international air navigation, or to the operation and navigation of such aircraft while within its territory, shall be applied to the aircraft of the other contracting party without distinction as to nationality, and shall be complied with by such aircraft upon entering or departing from or while within the territory of the first party.

(b) The laws and regulations of one contracting party as to the admission to or departure from its territory of passengers, crew, or cargo of aircraft, such as regulations relating to entry, clearance, immigration, passports, customs, and quarantine shall be complied with by or on behalf of such passengers, crew or cargo of the other contracting party upon entrance into or departure from, or while within the territory of the first party.

ARTICLE 6

Each contracting party reserves the right to withhold or revoke a certificate or permit to an airline of the other party in any case where it is not satisfied that substantial ownership and effective control are vested in nationals of a party to this agreement, or in case of failure of an airline to comply with the laws of the State over which it operates as described in Article 5 hereof, or to perform its obligations under this agreement.

ARTICLE 7

This agreement and all contracts connected therewith shall be registered with the Provisional International Civil Aviation Organization.

ARTICLE 8

Either contracting party may terminate the rights for services granted by it under this agreement by giving one year's notice to the other contracting party.

ARTICLE 9

Except as may be modified by the present agreement, the general principles of the aforementioned air navigation arrangement of 1934, as applicable to scheduled air transport services, shall continue in force until otherwise agreed upon by the two contracting parties.

ARTICLE 10⁶

In the event either of the contracting parties considers it desirable to modify the routes or conditions set forth in the attached Annex, it may request consultation between the competent authorities of both contracting parties, such consultation to begin within a period of sixty days from the date of the request. When these authorities mutually agree on new or revised conditions affecting the Annex, their recommendations on the matter will come into effect after they have been confirmed by an exchange of diplomatic notes.

ANNEX TO AIR TRANSPORT AGREEMENT BETWEEN THE
UNITED STATES OF AMERICA AND DENMARK ⁷

A. Airlines of the United States authorized under the present agreement are accorded rights of transit and non-traffic stop in Danish territory, including Greenland, as well as the right to pick up and discharge international traffic in passengers, cargo and mail at Copenhagen, on the following route:

The United States to Denmark and points beyond, via intermediate points; in both directions.

B. Airlines of Denmark authorized under the present agreement are accorded rights of transit and non-traffic stop in the territory of the United States, as well as the right to pick up and discharge international traffic in passengers, cargo and mail at New York or Chicago, on the following route:

Denmark to the United States, via intermediate points; in both directions.

You will, of course, understand that this agreement may be affected by subsequent legislation enacted by the Congress of the United States.

⁶ For an agreement of Aug. 6, 1954, deleting art. 10 and inserting new arts. 10–15, see 5 UST 1422; TIAS 3014.

⁷ For amendments to annex, see agreement of Oct. 23 and Dec. 5, 1945, and Mar. 21, 1946 (TIAS 1519), *post*, p. 119; for complete revisions, see agreements of July 8, 1958 (9 UST 1005; TIAS 4071), and June 7, 1966 (17 UST 712; TIAS 6021).

I shall be glad to have you inform me whether it is your understanding that the terms of the agreement resulting from the discussions are as above set forth. If so, it is suggested that the agreement enter into force provisionally on January 1, 1945 and definitively upon confirmation by a free Danish Government when such a Government shall have been established following the liberation of Denmark. If you concur in this suggestion the Government of the United States will regard the proposal as becoming effective under these terms.

Accept, Sir, the renewed assurances of my highest consideration.

For the Secretary of State:
STOKELEY W. MORGAN

The Honorable
HENRIK DE KAUFFMANN,
Minister of Denmark

The Danish Minister to the Secretary of State

ROYAL DANISH LEGATION
WASHINGTON, D.C.
December 16, 1944

SIR:

I have the honor to acknowledge the receipt of your note of December 16, 1944 in which you communicated to me the terms of a reciprocal air transport agreement between Denmark and the United States of America, as understood by you to have been agreed to in discussions, now terminated, between myself and representatives of the Government of the United States at the International Civil Aviation Conference in Chicago.

The terms of this agreement which you have communicated to me are as follows:

[For text of agreement, see U.S. note, above.]

In reply, I take pleasure in stating that the terms of the agreement as communicated to me are acceptable. Furthermore, I am pleased to accept your suggestion that the agreement enter into force provisionally on January 1, 1945, and definitively upon confirmation by a free Danish Government, when such Government shall have been established following the liberation of Denmark.

I avail myself of the occasion to renew to you, Sir, the assurances of my highest consideration.

HENRIK KAUFFMANN

The Honorable
EDWARD R. STETTINIUS, Jr.,
Secretary of State.